

REMARKS/ARGUMENTS

Claims 1-32 are pending in the application. Claim 1 is amended herein. The Applicant hereby requests further examination and reconsideration of the application in view of the foregoing amendments and these remarks.

Interview with Examiner

On October 21, 2008, Edward Meisarosh, attorney for the Applicant, participated in a telephonic interview with Examiner Usha Raman and Supervisor Christopher Kelley. The attorney for the Applicant presented (i) overviews of the present invention and the prior art references and (ii) arguments for the allowability of the pending claims, particularly claims 1, 6, 7, 11, and 32. After consideration, the Examiner indicated that at least claims 7 and 12 may be directed to allowable subject matter. In addition, the Supervisor indicated that the next office will be a non-final office action.

Miscellaneous Amendment

Claim 1 has been amended to clarify that the new playlist created in the adjusting step is the playlist referred-to in the claim preamble. This amendment was not made to overcome any prior-art references.

Prior-art rejections

In pages 2-6, the Examiner rejected claims 1-3, 9, 10, 16-20, 22-25, and 27-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,378,129 to Zetts in view of U.S. Pat. App. Pub. No. 2004/0237120 to Lewin. In pages 6-8, the Examiner rejected claims 4-7, 21, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Zetts in view of U.S. Pat. App. Pub. No. 2001/0025377 to Hinderks. In page 9, the Examiner rejected claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Zetts in view of U.S. Pat. App. Pub. No. 2002/0152278 to Pontenzone et al.

Improper rejections

The Applicant submits that the rejections of claims 4-7, 11-12, 21, and 26 are improper.

Claims 4-7 depend variously from claim 1, claim 21 depends from claim 18, and claim 26 depends from claim 23. The Examiner (a) rejected independent claims 1, 18, and 23 based on a combination of alleged teachings in Zetts and Lewin and (b) rejected claims 4-7, 21, and 26 based on a combination of alleged teachings in Zetts and Hinderks, but (c) failed to assert that

Hinderks discloses all the relevant teachings of Lewin. Without an assertion that Hinderks discloses the same features that were alleged to be taught in Lewin, the Applicant submits that it is improper as a matter of law to reject dependent claims 4-7, 21, and 26 based on a combination of Zetts and Hinderks, when the independent claims from which those dependent claims depend (i.e., claims 1, 18, and 23) are rejected based on a combination of Zetts and Lewin.

Claims 11-12 depend variously from claim 1. The Examiner (a) rejected independent claim 1 based on a combination of alleged teachings in Zetts and Lewin and (b) rejected claims 11-12 based on a combination of alleged teaching in Zetts and Pontenzone, but (c) failed to assert that Pontenzone discloses all the relevant teachings of Lewin. Without an assertion that Pontenzone discloses the same features that were alleged to be taught in Lewin, the Applicant submits that it is improper as a matter of law to reject dependent claims 11-12 based on a combination of Zetts and Pontenzone, when the independent claim from which those dependent claims depend (i.e., claim 1) is rejected based on a combination of Zetts and Lewin.

Thus, for the above reasons, the Applicant submits that the rejections of claims 4-7, 11-12, 21, and 26 are improper and should be withdrawn.

Allowable Subject Matter

In pages 9-11, the Examiner stated that claims 8 and 13-15 are directed to allowable subject matter and would be allowable if rewritten in independent form.

Comments on Examiner's Statement of Reasons for the Indication of Allowable Subject Matter

In pages 9-11, the Examiner provided a "statement of reasons for the indication of allowable subject matter" ("the Statement") which contains language that attempts to characterize the claimed subject matter and the cited references. The Applicant does not necessarily agree with the Examiner's characterization of the teachings of the cited references. To that extent, the Applicant objects to the Statement. In addition, the Reason cites only a portion of the claim language from the allowable-subject-matter claims and their respective base and intervening claims. The Applicant submits that these claims recite additional language not cited by the Examiner. To that extent, the Applicant also objects to the Statement.

In general, to the extent that the Statement differs from the language of any of the allowable-subject-matter claims, the Applicant rejects any narrowing or limitations that might possibly result from such differences.

For each of these reasons individually and for all these reasons collectively, the Applicant objects to the Statement.

Claims 1, 18, 23, and 30

In rejecting claim 1, the Examiner argued that Zetts discloses all of the claimed features of claim 1, including “receiving a reference playlist defining a plurality of attributes . . . the attributes comprising an on-air time, a start-of message, and a duration for each segment.” The Examiner cited column 5, lines 8-22, and col. 2, lines 14-22 and 38-43, as specifically teaching this feature. Although Zetts discloses a playlist that “contains the time the video is to play . . . and the duration . . . of the video clips,” (Zetts, column 5, lines 14-16), it does not disclose a playlist that comprises a start-of message. The Examiner argued that Zetts’ disclosure of “queue with data” discloses such a playlist, *i.e.*, one that comprises a start-of message, but that is not so. Zetts teaches providing a “queue with data” command “using a start offset that was manually calculated.” Column 2, lines 59-63. Nowhere does Zetts teach having media offset information, *e.g.*, a start-of message, in a playlist. See, *e.g.*, Figs. 2, 4, and 6, showing various playlists, none of which include media offset information. Thus, it cannot be said that Zetts teaches this requisite feature of claim 1.

According to the Examiner, Zetts also teaches the feature of “adjusting, based on the at least one identified active program segment, one or more attributes for one or more program segments in the reference playlist to create a new playlist.” The Applicant respectfully submits that the language cited by the Examiner does not appear in currently pending claim 1. Currently pending claim 1 recites the feature of “adjusting, based on the at least one identified active program segment, at least one of the on-air time, the start-of message, and the duration attributes for one or more program segments in the reference playlist to create a new playlist.” The Applicant submits that Zetts does not teach this requisite feature of claim 1.

The Examiner argued that “Lewin discloses a playlist defining a plurality of attributes for the one or more segments, the attributes comprising, on air time, and duration, wherein when a program is active (*i.e.* on air) and in the event a program is active, the duration attribute in the playlist is changed to a countdown of the time remaining in the event.” Assuming *arguendo* that Lewin discloses, as the Examiner argues, changing the duration attribute in a playlist into a countdown, Lewin nevertheless does not disclose the claimed feature. Lewin does not teach adjusting the duration attribute to create a new playlist. Instead, Lewin teaches using the

duration field as a countdown field for an on-air segment. Lewin does not teach creating a new playlist with an adjusted duration attribute. Nor does Lewin provide any reason to create a new playlist with an adjusted attribute. Thus, it cannot be said that the cited references teach this requisite feature of claim 1.

The Applicant submits, therefore, that claim 1 is allowable over the prior art. For similar reasons, Applicant submits that claims 18, 23, and 30 are also allowable over the prior art. Since claims 2-17 and 31-32 depend variously from claim 1, claims 19-22 depend from claim 18, and claims 24-29 depend from claim 23, it is further submitted that those claims are also allowable over the prior art.

Claim 6

In rejecting claim 6, the Examiner argued that Zetts in combination with Hinderks discloses all of the features of claim 6, including that “the specified reference time is based on the current time of day in a second time zone that is different than the first time zone.” The Applicant respectfully submits that the combination proposed by the Examiner is improper.

The Examiner asserted that it would have been obvious to combine Zetts and Hinderks “in order to allow viewers in each of these time zones to see the six o’clock network news, or other show, at the correct time in their respective time zones.” Such a system, however, is completely disclosed in Hinderks, which discloses a system that “allows a single network feed to originate on the east coast and be delivered to local servers . . . delayed appropriately for each time zone” (Hinderks, paragraph 221). Thus, no reason is provided for adding on the teachings of Zetts to the system of Hinderks. Thus, the proposed combination is improper.

Furthermore, the Examiner admitted that Zetts teaches only “that the specified reference time is based on the current time of day . . . — ‘local time.’” The Applicant submits that the Examiner failed to provide any cogent argument supporting the Examiner’s naked assertion that somehow combining Zetts and Hinderks would result in a modification of a process disclosed by Zetts such that a specified reference time, which is compared to at least one on-air time in a reference playlist, is no longer the local time, but is, instead, the current time of day in a second time zone that is different than the first time zone. Thus, even if it were proper to combine the references, which the Applicant does not admit, then, if any element of the combination corresponds to the specified reference time, it would be the local time and not some time in a

different time zone. Thus, it cannot be said the cited references teach this requisite element of claim 6.

The Applicant submits, therefore, that this provides further grounds for the allowability of claim 6 over the cited references. Since claims 7 and 8 depend from claim 6, it submitted that this provides further grounds for their allowability over the cited references. For similar reasons, it is also submitted that this provides further grounds for the allowability of claims 21 and 26 over the cited references.

Claim 7

In rejecting claim 7, the Examiner argued that the combination of Zetts and Hinderks discloses all the claimed features of claim 7, including “executing the new playlist on a second subsystem that sources a second on-air feed that is intended for viewing in at least the second time zone, wherein the second on-air feed is substantially a time-delayed version of the first on-air feed.” The Applicant submits, however, that such a combination does not teach this requisite feature of claim 7.

The feature recited in claim 7 permits the sourcing of appropriately scheduled programming to two different time zones after a failure of a delay unit, such as delay unit 512 of Fig. 5, by using two subsystems. Neither Zetts nor Hinderks teaches or even suggests any feature of this sort.

Assuming *arguendo* that it is proper to combine the video-streaming system of Zetts with the “delay play” server of Hinderks, which the Applicant does not admit, then such a combination would result in on-air feed 198 of Fig. 1 of Zetts going to one or more delay-play servers so that on-air feed 198 of Zetts can play at the appropriate scheduled time in different time zones. A simplified diagram of such a combination appears in Diagram 1, below.

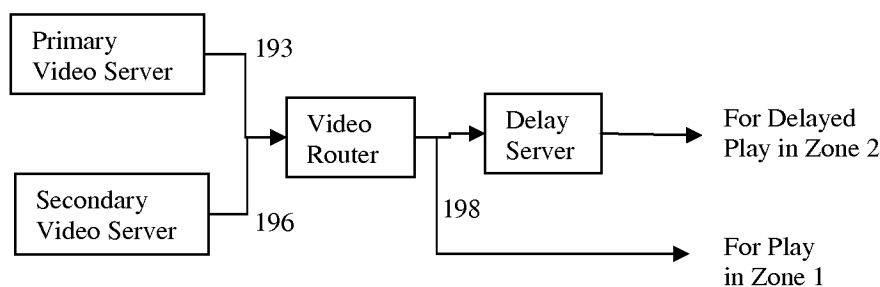


Diagram 1

As can be seen, this combination fails to teach a system where the new playlist (created by adjusting one or more attributes in the reference playlist, as described in claim 1, the base claim for claim 7) is executed on the second subsystem that sources a second on-air feed intended for viewing in the second time zone. The only feed for viewing in the second time zone that could be taught in a combination of Zetts and Hinderks is a delayed feed going through a delay server. Such a combination would not teach a second on-air feed intended for the second time zone, where the second on-air feed is substantially a time-delayed version of the first on-air feed. Furthermore, such a combination would not permit the sourcing of appropriately scheduled programming to two different time zones after a failure of a delay unit, contrary to the claimed feature. Thus, it cannot be said that the cited references teach this requisite feature of claim 7.

The Applicant submits, therefore, that this provides further grounds for the allowability of claim 7 over the cited references.

Claim 11

In rejecting claim 11, the Examiner argued that Zetts in combination with Pontenzone discloses all of the features of claim 11, including that “the received reference playlist is selected from a plurality of playlists.” The Examiner cited video archive 140 of Zetts’ Fig. 1 as specifically teaching this feature. However, video archive 140 is not analogous to a plurality of playlists. Video archive 140 stores video and is connected to the primary and secondary video servers. Zetts, column 4, lines 57-67. There is no indication that video archive 140 comprises any, let alone a plurality of, playlists. The only playlist in Fig. 1 is playlist 110, which is executed by master automation computer 110, with no active role by video archive 140. Zetts Fig. 1 and column 4, lines 43-47. Furthermore, Zetts does not teach selecting a reference playlist from a plurality of playlists. Thus, it cannot be said that Zetts discloses this requisite feature of claim 11.

The Applicant submits, therefore, that this provides further grounds for the allowability of claim 11 over the cited references. Since claim 12 depends from claim 11, it is further submitted that this also provides further grounds for the allowability of that claim over the cited references.

Claim 12

In rejecting claim 12, the Examiner argued that Zetts in combination with Pontenzone discloses all of the features of claim 12, including that “at least one of the playlists in the

plurality of playlists is from a playlist archive.” The Examiner cited video archive 140 of Zetts’ Fig. 1 as specifically teaching this feature. However, video archive 140 is not analogous to a playlist archive. Video archive 140 stores videos. Zetts, column 4, lines 57-67. There is no indication that video archive 140 comprises any playlists. The only playlist in Fig. 1 is playlist 110, which is executed by master automation computer 110, with no active role by video archive 140. Zetts Fig. 1 and column 4, lines 43-47. Thus, it cannot be said that Zetts discloses this requisite feature of claim 12.

The Applicant submits, therefore, that this provides further grounds for the allowability of claim 12 over the cited references.

Claim 32

In rejecting claim 32, the Examiner argued that the combination of Zetts and Lewin teaches adjusting the on-air time, the start-of message, and duration. The Applicant submits that the cited references do not teach this feature. As noted above in reference to claim 1, the Applicant submits that the cited references do not teach adjusting the duration attribute to create a new playlist.

The Examiner argued that the cited references teach adjusting the start-of message where “event number/status # indicating an ‘on air’ event.” The Examiner appears to cite paragraph 42 of Lewin as specifically teaching this feature. The Applicant submits that paragraph 42 of Lewin makes no mention of on-air events or event or status numbers. Furthermore, the Applicant respectfully submits that the correspondence alleged by the Examiner does not make any sense. As noted in the specification at page 7, a start-of message indicates when a segment begins within a program relative to the beginning of the program. An event or status number indicating an on-air event provides no such information. In addition, as noted above in reference to claim 1, the Applicant submits that the cited references do not disclose a start-of message in a playlist, let alone the adjustment of a start-of message to create a new playlist. Thus, it cannot be said that the cited references teach this requisite feature of claim 32.

Therefore, the Applicant submits that this provides further grounds for the allowability of claim 32 over the cited references.

In view of the above amendments and remarks, the Applicant believes that the now-pending claims are in condition for allowance. Therefore, the Applicant believes that the entire

application is now in condition for allowance, and early and favorable action is respectfully solicited.

Fees

During the pendency of this application, the Commissioner for Patents is hereby authorized to charge payment of any filing fees for presentation of extra claims under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17 or credit any overpayment to **Mendelsohn & Associates, P.C. Deposit Account No. 50-0782.**

The Commissioner for Patents is hereby authorized to treat any concurrent or future reply, requiring a petition for extension of time under 37 CFR § 1.136 for its timely submission, as incorporating a petition for extension of time for the appropriate length of time if not submitted with the reply.

Respectfully submitted,

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